

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Quatavious Bernard Bivens,

Plaintiff,

v.

T. Clark, Willie Davis, Joel Anderson, Dennis
Patterson, C. Williams, Bryan Stirling,

Defendants.

C/A No.: 9:23-cv-00778-SAL

ORDER

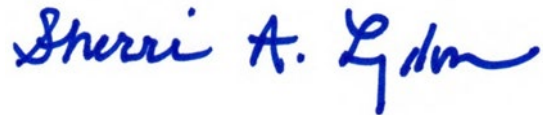
This matter is before the court for review of the November 16, 2023, Report and Recommendation of United States Magistrate Judge Molly H. Cherry, made in accordance with 28 U.S.C. § 636(b)(1)(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). [ECF No. 12.]. In the Report, the magistrate judge recommends the court dismiss this action without prejudice, without leave to amend, and without issuance and service of process. Attached to the Report was a notice advising Bivens of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. *Id.* at 8. According to the docket, the Report, including the notice, was originally mailed to Bivens on November 16, 2023. [ECF No. 13.] Bivens did not file objections, but on November 29, 2023, the court received a notice of change of address, which was mailed November 27, 2023. Out of an abundance of caution, the court mailed the Report to Bivens at his new address on March 15, 2024. [ECF No. 16.] At that time, the court also advised Bivens that his deadline to file objections to the Report was extended to April 1, 2024. [ECF No. 15.] Bivens has not filed objections, and the time for doing so has expired.

The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this

court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to, and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

Having thoroughly reviewed the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 12, and incorporates the Report by reference herein. The case is thus **DISMISSED WITHOUT PREJUDICE, WITHOUT LEAVE TO AMEND,¹** and **WITHOUT ISSUANCE AND SERVICE OF PROCESS.**

IT IS SO ORDERED.



April 17, 2024
Columbia, South Carolina

Sherri A. Lydon
United States District Judge

¹ *See Britt v. DeJoy*, 45 F.4th 790 (4th Cir. 2022) (noting that “when a district court dismisses a complaint or all claims without providing leave to amend ... the order dismissing the complaint is final and appealable”).